

1           IN THE UNITED STATES DISTRICT COURT FOR  
2           THE MIDDLE DISTRICT OF NORTH CAROLINA

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5           MAXWELL KADEL, et al.,                 )  
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13    DEPOSITION  
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15    DALE FOLWELL  
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15    AUGUST 12, 2021

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17    THIS TRANSCRIPT IS NOT COMPLETE  
18    PORTIONS OF THIS TRANSCRIPT AND/OR EXHIBITS  
19    MAY BE DESIGNATED CONFIDENTIAL/ATTORNEYS EYES ONLY  
20    AFTER REVIEW OF TRANSCRIPT BY ATTORNEYS WITHIN 30  
21    DAYS OF DATE OF DEPOSITION PER PROTECTIVE ORDER

22  
23    NORTH CAROLINA STATE HEALTH PLAN  
24    3200 Atlantic Avenue, First Floor  
25    Raleigh, North Carolina

24  
25    Reported by: Michelle Maar, RDR, RMR, FCRR

1 Q. What are your responsibilities as Treasurer?

2 A. Well, there are lots.

3 Q. Let me rephrase that because I understand -- what  
4 are your main responsibilities?

5 A. To put this in context, the, the State  
6 Treasurer's Office of North Carolina, as of this week, is,  
7 manages nearly a quarter of a trillion dollars. That's  
8 almost 250 million billion dollars. And just the Pension  
9 Plan is the 26th largest pool of public money in the entire  
10 world.

11 So I'm sometimes asked if I signed the one dollar  
12 bill. That's where people see the word treasurer. And it's  
13 an obvious question. But I don't do that. But we manage  
14 one of the largest pools of that, those in the world.

15 And to put that in context, that is 10 times  
16 larger than the state budget that's being debated as we sit  
17 here.

18 So I would be glad to go down and answer your  
19 question if I may.

20 Q. Please do.

21 A. Okay. I would say that, that it includes the  
22 State Pension Plan, which manages the pension assets for  
23 nearly 1 out of 10 adult North Carolinians, those that  
24 teach, protect, and otherwise serve, with nearly 900,000  
25 participants.

1                   That Pension Plan is considered one of the  
2 best-funded pension plans in the United States. I'm not  
3 sure where you're from, but I can probably compare ours to  
4 wherever you are from.

5                   And the Pension Plan has, as well-funded as it is,  
6 which should give you a little bit of fear of how some of  
7 these other pension plans are doing, as well-funded as we  
8 are, it has tremendous headwinds.

9                   And most of these headwinds that I'll mention to  
10 you are blessings. Zero interest rates is a blessing when  
11 you're investing in your life or buying a house or buying a  
12 car or starting a business. It's not a blessing for pension  
13 plans.

14                  Increased life expectancies, that's obviously a  
15 blessing on the face of it.

16                  When I was in high school in 1977, there were  
17 about 300 people over the age of 90 who were getting a  
18 pension check. Last week, it was 7000 people over the age  
19 of 90.

20                  And then somewhere along the way of the last 35  
21 years, the minimum retirement age was taken out of the  
22 Pension Plan.

23                  So this is not political or emotional, it's  
24 mathematical -- especially for the certain life  
25 expectancies. We're now in the situation that, because

1       people can retire when they're 50 years old, we have the  
2       majority of our members who are going to be receiving more  
3       retirement checks than paychecks. And the plan was never  
4       really designed for that.

5                     So all of our focus and the number one  
6       responsibility has to do with my pledge to the participants  
7       in these plans because of my fiduciary responsibility, which  
8       includes being loyal and exercising a duty of care to  
9       preserve, strengthen, but figure out how to sustain this  
10      plan for this and the next generation of public service  
11      workers.

12                  The Plan is paying out nearly 550 million dollars  
13       gross every 30 days. The amount of gross dollars leaving  
14       the plan is twice as high as the state debt. So it's kind  
15       of a big deal and a big responsibility.

16                  The second is the Defined Contribution Plan, which  
17       has over 15 billion dollars in it today. Just this week, we  
18       received two national awards.

19                  Both of these plans have recently been designated  
20       being in the zero percentile -- which is where I spent most  
21       of my school career, which is not a good thing.

22                  But when it comes to scoring it, the efficiency of  
23       a Pension Plan, it's a great thing.

24                  And so the Defined Benefit Plan, as well as the  
25       Defined Contribution Plan have, are getting national

1 accolades for what we've tried to do to simplify these plans  
2 and to cut expenses.

3 The Defined Contribution Plan is made up of a 401,  
4 457, and a 403. And it, I think the 457 Plan is not as  
5 large in total dollars as the California plan is, but it has  
6 more enrollees.

7 So when you go from the Pension Plan, the Defined  
8 Contribution Plan, then the next level would be the State  
9 Health Plan, which is the largest purchaser of healthcare in  
10 North Carolina, and the State Pharmaceutical Plan, which is,  
11 for public service workers, also the largest in North  
12 Carolina.

13 When I was sworn in as keeper of the public purse,  
14 that was, I inherited a broke and broken State Health Plan.

15 And the broke part is something that was brought  
16 to my attention in 1993 actually, before -- if you can  
17 believe it's been that long.

18 And I'll be glad to explain why if you like.

19 Q. Please do.

20 A. A person that is considered by most around these  
21 parts to be possibly the best banker in history is a fellow  
22 by the name of John Medlin.

23 Now, I'm sure I've cleaned John Medlin's toilets  
24 at a gas station or I've pumped gas in his car or cooked  
25 food for him at Mayberry's. But I didn't know who he was.

1           A. The most important person in the whole place.

2           Q. I will agree with you generally because most  
3 executive assistants are.

4                         And we already know who Ms. Crabtree is, right?  
5 We've talked about her.

6           A. I don't dispute this timeline or this time stamp.  
7 I'm just surprised that Sam Hayes was working here in  
8 February of 2017, but that's what it says.

9                         I thought Blake stayed here until April or May of  
10 that year.

11                         It's not here nor there -- I'm just -- I thought  
12 Blake was here for several months as the interim General  
13 Counsel, which means Sam would not have been working here.

14           Q. Right. And it may have been habit, I know people  
15 type in e-mails after they --

16           A. This person didn't even work for -- anyway,  
17 mental curiosity.

18           Q. Getting back to Exhibit 7 -- so Ms. Moon is  
19 e-mailing you.

20           A. Yes.

21           Q. And the first line says you've asked several  
22 times for a list of requirements associated with the Plan's  
23 participation in the federal Retiree Drug Subsidy (RDS)  
24 Program.

25                         Do you see that?

1           A. I do.

2           Q. Why were you asking for a list of requirements  
3           associated with the Plan's participation in the RDS  
4           Program?

5           A. I believe I was asking regarding matters that had  
6           nothing to do with the basis of this case.

7                 That is, that, at that point, the previous  
8                 treasurer had flipped the PBM, prescription drug benefit  
9                 manager, on January 1, 2017 from Express Scripts to CVS  
10                 Caremark.

11                 So as you can imagine, when people have been,  
12                 retirees especially, have been on Express Script for many,  
13                 many years, that when they're flipping over to a new  
14                 manager, there's different tiering, there's different this,  
15                 there's different formulas, there's different all these  
16                 things that none of us like regarding drug costs or  
17                 figuring out what they pay for.

18                 I was asking this question specifically in  
19                 relation to a notion that I got -- was the State Health  
20                 Plan participating in what we, I think is known as the 40B  
21                 Program.

22                 The 40B Program, it's my understanding, is a  
23                 program that allows the, other governmental entities to get  
24                 the same drug prescription rates as the Federal Government  
25                 negotiates through CMS and EA.